

This rejection is based on the argument that the working examples use rats (the only animal tested) and feed supplemented with corn oil to increase the fat content to 30%, which is a large amount of fat. The Examiner asserts that this data does not show that the invention works. However, the data does show that significantly more feed was needed to gain 1 gram of body weight in the test group than in the control group (18.5 vs. 12.0 grams). The Examiner also questioned whether data in rat is representative of "animals," as claimed, and whether the fat-enhanced feed was appropriate for assaying a method of inhibiting the amount of body weight gained after eating.

The Applicant submits herewith an executed Declaration under 37 C.F.R. §1.132 by Dr. Kurt Richardson, which explains that rat was selected as the experimental animal is because it is a rodent and rodents are the primary animals used in research tests. The rationale for this fact is that rodents 1) possess a genetic uniformity that reduces the possibility for variation, 2) have well defined physiological parameters, i.e. their physiological responses to foreign agents/compounds are well documented, 3) are readily available from commercial sources, 4) are easy to handle and maintain and 5) they have relatively short life spans which allows the opportunity to study long term effects. Also, the rat is often used in immunological experiments to study antibody-based products. Rats and mice together account for 88% of all animals used in research and testing. Thus, the rat data in the specification represents an art-accepted research model from which valid conclusions may be drawn.

Rats were used in the present study rather than mice because they have higher body weight and so significant differences in body weight could be easily detected.

With regard to the high fat content, it is often the case in physiological experiments that a compound or agent of interest is used in high doses in order to enhance the effect and reduce the time needed to observe an effect. This approach makes the data more reliable.

Finally, since the present invention works in the intestinal tract, one would expect to be able to extrapolate the results in rodents to other animals having similar digestive systems, such as avians.

Applicant submits that the case is now in condition for allowance. Early notification of such action is earnestly solicited.

Respectfully submitted,

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